

PUERTO RICAN LEGAL DEFENSE AND EDUCATION FUND, INC.

REPORT OF ACTIVITIES

1986

Presented to the Board of Directors
January 15, 1987

I. THE LEGAL DIVISION

A) Political Participation:

Political participation is a means of achieving a better standard of life. The Fund considers the protection of the fundamental right to vote a critical obligation. To meet this obligation, The Fund has initiated litigation in this area as exemplified by the following cases:

Vargas v. Calabrese (D.N.J. 1985)

This lawsuit, filed on behalf of a class of Latino and Black voters of Jersey City, New Jersey, seeks declaratory, injunctive and monetary relief against Hudson County election officials and the former mayor of the City for a concerted scheme to slow down, frustrate and deny the right to vote in a mayoral run-off election in June 1985. The Fund is lead counsel and is joined by the Lawyers' Committee for Civil Rights Under Law of New Jersey and the American Civil Liberties Union. By mid-October, The Fund obtained a preliminary injunction affecting procedures for the November 1985 elections. Although The Fund secured class certification and dismissal of defendant's motion for attorneys' fees, the Court rejected our argument that the New Jersey statute authorizing the challenge process is unconstitutional on its face. Consequently, since April 1986 through the present, The Fund has been engaged in discovery. In September 1986, The Fund was able to secure a reversal of an order by the Magistrate granting a full protective order barring all discovery from one of the defendants. We are presently awaiting a trial date.

There are a number of important issues in this case. First, The Fund hopes to establish voting as an exercise of free speech. Second, The Fund hopes to establish that voting rights violations are compensable through money damages. Inasmuch as these legal issues are not settled in civil rights and constitutional law, Vargas is an important test case. From the community's standpoint, Vargas represents a challenge to the "dirty politics"

therefore, was whether some 15,000 Latino members of this union were permitted to participate equally in the affairs of the union given the lack of bilingual voting materials. At issue as well was the union's failure both to conduct elections at all of its chapters, particularly where a negative vote was anticipated, and to make information on the proposed amendment available to the entire membership.

The Fund sought prospective injunctive relief and the invalidation of the referendum results. Discovery was conducted throughout 1985 and the final pre-trial order and accompanying pre-trial legal memoranda were filed with the court in August 1985.

In the Spring of 1986 the union elected officers under the supervision of the NLRB in settlement of a lawsuit filed against former President Doris Turner alleging fraud and irregularities in her 1984 election. Then President Turner's opponents were the Unity and Progress faction of District 1199, the main supporters of our lawsuit against the union. Unity and Progress won the election and were sworn into office in June 1986. The lawsuit was therefore put on hold and the case was placed on the suspense docket based on representations by both sides that the matter would be settled. Current settlement discussions include binding commitments for all future elections.

The impact of this litigation would benefit thousands of 1199 members. The case will also affect other unions with substantial Latino membership. Moreover, in the present climate of the English-Only movement, it would carve a niche of protection for language rights throughout the union election process. Related to Rodriguez v. District 1199 was the provision of legal assistance and collaboration with the Legal Aid Foundation of Los Angeles which is litigating the Zamora v. Local 11 case in the federal courts in California. Zamora involved the same labor law statutes The Fund relied upon in Rodriguez v. District 1199 for a union with a 50% Latino membership that was seeking to have

interstate migration and veterans rights within the context of a national army. Thus, the crisis in unemployment of thousands of veterans will be ameliorated.

At present there are two remaining issues before the court. First, does the relief to which plaintiffs are entitled extend to all civil service lists currently in use, thereby extending the decision's benefit to hundreds of presently identifiable veterans, or is the relief limited to lists developed in the future. The second is whether the two individual plaintiffs are entitled to backpay awards as of the time they were unconstitutionally denied their jobs. Both the City and State oppose the application of the decision to current lists; the City alone opposes backpay. A decision by the district Court is expected within the next several months.

Del Valle v. Local 14-14B International Union of Operating Engineers (S.D.N.Y. 1982)

Del Valle was filed on behalf of one Puerto Rican and five Black trainees in an apprenticeship program of Local 14B who were denied admission into the union as crane operators. The companion case, EEOC v. Local 14, International Union of Operating Engineers, was brought by the United States against the same union alleging a pattern and practice of failure to admit Blacks and Hispanics. In 1983, the District Court granted The Fund amicus curiae status in the EEOC litigation.

The Del Valle case was successfully settled in November of 1984. The settlement included admission into the union as well as the reservation of plaintiffs' rights to seek monetary relief from any settlement of the Local 14 action. But, because of scheduling complications, plaintiffs were not admitted into the union until April 1985.

In EEOC v. Local 14, The Fund played a major role in the "fairness hearing" held in December 1984 regarding the proposed consent decree. The Fund was the only amicus organization submitting comments which resulted in the amendment of the proposed

Hispanic Police Society v. New York City Civil Service Commission
(S.D.N.Y. 1985)

This is a Title VII employment discrimination case challenging the validity of the examination for lieutenant in the New York City Police Department. After a denial of a preliminary injunction, the parties are now engaged in discovery.

Guardians Association v. New York City Civil Service Commission
(S.D.N.Y. 1976)

This Title VII employment discrimination case challenged seven examinations for police officers given from 1968 through 1970 by New York City. After successful district court litigation, there have been three appeals to the Circuit Court of Appeals and one to the United State Supreme Court. Under the terms of the resulting order, Hispanic and Black police officers who sat for the challenged examinations are entitled to at least the median date of appointment from those examinations as well as backpay. The retroactive seniority and premium benefits have just recently been secured and the parties are now beginning to negotiate the amount of backpay.

Guardians Association v. New York City Civil Service Commission
(S.D.N.Y. 1979)

This employment discrimination case challenged the examination for police officers in New York City. An order was obtained providing for a one out of three quota for Hispanic and Black police officers. Backpay was also provided. After a successful motion for contempt, backpay was awarded to three police officers that the City had not paid.

FALU, et al. v. SUNY/COW, et al. (E.D.N.Y. 1983)

In this case Hispanic college professors and an administrator filed a federal lawsuit charging that SUNY at COW discriminated against them based upon their race, national origin and age. Tenure was denied to them and they seek their teaching positions, tenure, seniority, pension benefits and damages. A motion to

Malave v. United States Postal Service (D. Conn. 1981)

The plaintiff in this case complains of discrimination in promotion and retaliation for prior charges. The Fund is co-counsel with a local attorney in this matter.

Muniz v. New York City Department of Social Services 83 Civ. (CES 1983)

The plaintiff in this case was a vociferous advocate for bilingual employees of the New York City Department of Social Services. She organized a committee of these employees who complained that they were not being properly utilized and in many cases discriminated against. As a result, her employment was terminated and she filed a claim for retaliatory discharge. A tentative settlement has been negotiated providing for partial backpay and for correction of her personnel records.

Perez v. Ward, et al. (2nd Civ. 198)

This case is an appeal of the decision by the Appellate Division affirming the Police Department's decision to terminate petitioner from his employment as a police officer. The Department suspended the petitioner because he failed to obey an order to submit to a drug test without just cause.

The petitioner was called into the office on his regular day off "to adjourn a court proceeding". When he arrived at the precinct, he was advised that he had to undergo a drug test. He asked for an attorney and his request was denied. Later, at the police academy, he was told to delay taking the drug test until the PBA attorney arrived. After the attorney arrived, he requested that the petitioner and investigating sergeant wait until he called his office. Although agreeing, the sergeant ordered petitioner to take the test during the attorney's absence. Petitioner refused to submit to the test during his attorney's absence as a result of which the sergeant suspended him.

The challenge in this case is based upon federal constitutional protections against unreasonable searches and seizures,

Rodriguez v. State University of New York at New Paltz et al.
(S.D.N.Y. 1985)

This is an employment discrimination case against the State University of New York at New Paltz charging a discriminatory denial of tenure as a professor on the basis of national origin. It is alleged that the plaintiff's record as a spokesperson for Hispanic and minority rights on campus led to the denial of tenure, although otherwise qualified.

Sanchez v. New Rochelle Police Department (NYS Div. of Hum. Rts.)

This employment complaint involves a Puerto Rican who sought a position in the New Rochelle police department. The department has only one Hispanic police officer. The complainant passed the police examination, but was nevertheless bypassed for appointment. A finding of probable cause has been issued and a hearing will be scheduled shortly.

Budet v. Health and Hospitals Corporation, et al. (Equal
Empl. Oppor. Comm. 1982)

This is an employment discrimination case before the Equal Employment Opportunity Commission based on national origin and sex discrimination. The Fund represents a female security officer who was dismissed from her job at Lincoln Hospital because she was pregnant while male officers who were otherwise similarly qualified were retained.

Hernandez v. Newmark Realty (NYS Div. of Hum. Rts.)

In this case the plaintiff was discharged from his position as superintendent of a commercial building in New York. A new management firm was retained which discharged the plaintiff and replaced him with a non-Hispanic. A finding of probable cause was issued and a hearing will be scheduled soon.

Madero v. Subway-Surface Supervisions Association (NYC Comm. on
Hum. Rts.)

The case also raises a number of other important legal issues in employment discrimination. The first is whether a case of intentional discrimination can be proven against a corporate defendant that employs different attendance standards in separate units which are racially segregated where there is no discriminatory application of attendance standards within each unit. The second is whether a federal court must accept the findings of fact of a state administrative agency, here the Unemployment Insurance Administration, as binding between the same parties when a state court would be required to do so under state law.

Favorable decisions on the issues presented in Ramos may have a significant impact. Although on the merits the case would only benefit Latinos employed by Flagship-International, this employer is so large that an favorable decision could have a positive overflow effect for other Latinos with the company. On the issue of corporate liability, the impact of a decision would be wide in scope. Finally, on the unemployment insurance findings the impact for our community could be quite significant because many Puerto Ricans and Latinos avail themselves of unemployment benefits when they are terminated.

Castillo v. Day, et al. (S.D.N.Y. 1984)

This action was brought in federal court against the NYC Police Department and several individual police officers for police misconduct. The plaintiff, a former NYC bus driver, was chased by the police for traffic infractions. When stopped by the police, he was assaulted without justification and injured. Medical files were lost by the administrator after the hospital where he was treated closed.

We are currently awaiting a trial date. In the meantime, a proposed settlement has been agreed upon by the parties and is awaiting approval from the NYC Comptroller.

C) Housing Opportunities:

The Puerto Rican Legal Defense and Education Fund has focused its efforts and resources to expand housing

Due to the important implications of this case, a number of groups, including the New York Civil Liberties Union, Brooklyn Legal Services Corp. B., Community Action for Legal Services, and the Housing Conservation Coordinators, are submitting amicus briefs in support of The Fund's position.

The Fund is working with the Association of Neighborhood and Housing Development and the Community Services Society (CSS) to generate political and public support for our clients. CSS is preparing an economic analysis to demonstrate whether and how the tenants could afford to operate these buildings on a more secure basis as an alternative to a sale to the developer.

Mariani, et al. v. Banat Realty, et al. (E.D.N.Y. 1986)

This is a housing discrimination lawsuit in which plaintiffs allege that they were denied an apartment because of their race and color. The realty company and its owner have filed an answer. The case is presently in the discovery stage.

Quinones v. Nescie (E.D.N.Y. 1985)

This is a refusal to rent case in Staten Island. The plaintiff is a dark-skinned Puerto Rican woman who alleges that she was denied a vacant apartment because of her race, color and the fact that she has a child. The suit is brought under Title VIII, §1982 of the 1866 Civil Rights Act and §236 of the New York Real Property Law which prohibits discrimination in rentals or sales against families with children. Plaintiff seeks monetary damages and injunctive relief. Defendants are the real estate agency, broker and owner.

In October 1985 the landlady countersued the plaintiff for damages totaling \$1,300,000 for alleged defamation, abuse of process and punitive damages. In December 1985, The Fund moved to dismiss the counterclaims and the landlady moved to amend her counterclaim, dismiss the lawsuit and strike the demand for a jury.

In May 1986 the judge wrote an opinion which granted all our motions and denied those of the landlady. The Court relied on The

The issue in the case is whether these actions constitute a violation of law such that a court could order the set aside of monies for the creation of low and moderate income housing.

The impact for the Puerto Rican community in Holyoke is clear if affordable units could be secured through this lawsuit. However, the housing market has changed in that the actions taken by the City and sanctioned by HUD are no longer taking place. The Fund is therefore currently reviewing the status of the case.

D) Language Rights Initiatives:

One of the major priorities of The Fund is to continue and expand its efforts, through litigation and advocacy strategies, to secure the language rights of Puerto Ricans and other language minority communities. Our work in this area has included the following cases:

Gonzalez v. Colahan-Saunders (S.D.N.Y. 1985)

This is a case filed by The Fund on behalf of a Puerto Rican typesetter who was fired for violating the printing firm's English-Only rule. Discovery was conducted throughout 1985 and 1986. In June 1986 the parties commenced settlement discussions before a federal magistrate. By August 1986 these were successfully concluded and a settlement agreement and joint motion to dismiss the matter was filed with the court. In September 1986 the settlement was approved by the court. In October 1986 the plaintiff received her monies pursuant to the settlement.

The terms of the settlement can not be disclosed except for one paragraph which notes that defendants deny ever having a rule but agree that such a rule does not exist at present and that they would do so only if supported by a business necessity. The settlement supports the principle that it is acceptable to speak Spanish on the job without repercussions.

PRLDEF v. City of Elizabeth New Jersey (1983)

The Fund filed a third party charge of employment discrimination with the EEOC against the City of Elizabeth and its mayor

Parents Association of P.S.16 v. Quinones (2nd Cir. 1986)

On behalf of the Parents' Association of P.S.16, The Fund filed an action for permanent injunction in federal court challenging the racial and religious segregation of school children at P.S.16. Specifically, we challenged the Board of Education's plan to provide federally funded remedial education classes for parochial school children on a segregated basis at P.S.16. The religious beliefs of the parochial school children require strict segregation of the sexes. To accommodate this and other beliefs, the Board of Education constructed doors and walls to segregate public from parochial school children. Although the United States District Court denied our motion for a preliminary injunction, the United States Court of Appeals for the Second Circuit reversed the District Court and granted our motion. Settlement negotiations are underway. If they are unsuccessful, The Fund will schedule discovery and a trial date.

United States and Yonkers Branch of the NAACP, et al. v. Yonkers Board of Education, City of Yonkers and Yonkers Community Development Agency (S.D.N.Y. 1986)

The Fund represents the Organization of Hispanic Parents of Yonkers as amicus curiae in this landmark school and housing desegregation case. The goal of the Fund's participation in this suit has been to secure the maintenance of the bilingual education program within the school desegregation order. The judge has included as part of his decision in the case provisions for bilingual education as a result of the Fund's work.

An appeal to the Court of Appeals for the Second Circuit challenging the liability finding and remedy has been filed. The Fund seeks to file an amicus brief in support of the liability and bilingual provisions contained in the District Court's decision.

Barcia, et al., v. Sitkin, et al. (S.D.N.Y. 1979)

This is a federal court class-action against the NYS Unemployment Insurance Appeal Board (UIAB) regarding its failure to provide interpreters for claimants seeking unemployment insurance

42 U.S.C. 1971 et. seq. Moreover, The Fund is seeking compliance with the 1974 Federal District Court decision, Torres v. Sachs, in which the Fund successfully challenged the lack of bilingual oral and written assistance to Puerto Rican and Hispanic voters in New York City. That decision requires the New York City Board of Elections to provide Spanish interpreters for polling sites in each election district in the City with a population of 5% or more Hispanic persons according to recent census data.

Community school board elections in New York City typically draw higher Hispanic voter participation than other elections because of community interest in neighborhood school policies. Various community-based Hispanic organizations were concerned that Hispanic voters would not receive adequate bilingual assistance at the polls and that the elections would be marred by irregularities which would abridge Hispanic voter participation in the election. Consequently, Fund attorneys, in conjunction with organizations such as Padres Unidos of School District 6 and Concerned Citizens of Queens, monitored polling sites in Upper Manhattan and Queens where Hispanic voter turnout was expected to be high for Hispanic candidates running in the elections. Fund attorneys uncovered numerous irregularities during the May 6th, 1986 elections, including:

- ° Polling sites which had no Spanish-speaking interpreters or an insufficient number of interpreters to assist non-English speaking voters as required by law;

- ° Non-citizen parents eligible to vote in school board elections in District 6 in Upper Manhattan were threatened by poll workers and denied their right to vote;

- ° Polling sites, such as Public School 118 in the Bronx, did not open until 11:30 a.m. while other polling sites in Queens closed early;

- ° Poll workers insulted Hispanics who were unable to speak English and attempted to keep interpreters from assisting these persons; and,

- ° Hispanic parents were denied the right to vote by affidavit ballot at certain polling sites.

proposes to have poll watchers at various locations in the City. Monitoring has become part of a strategy to both prevent abuse which may otherwise occur and to prepare for possible litigation to remedy the persistent violations of voting rights of Hispanics in New York City.

- During 1986, The Fund was able to provide legal and technical assistance to the National Puerto Rican Hispanic Voter Participation Project on a number of issues affecting its clientele. These efforts included both support and advocacy for continued community involvement and case development investigation. The issues included a potentially discriminatory redistricting plan in Lawrence, Massachusetts which was addressed in June 1985; a misleading ballot format affecting an independent Hispanic candidate in Dover, New Jersey which was addressed in October 1985; and an alleged abuse of challenge procedures in Waukegan, Illinois which was handled in November 1985. Although none of these events have risen to a level requiring the initiation of litigation, The Fund was able to play a role in the community's ability to assess its options.

The Fund is presently investigating the possibility of challenging the at-large system to elect city council members in the City of New Brunswick, N.J. as a discriminatory denial or abridgement of minority voting rights. Litigation in this instance would be similar to that of a recent case decided by the Supreme Court, Thornberg v. Gingles, under Section 2 of the Voting Rights Act. The Gingles case, in essence, held that discriminatory purpose need not be proven for Section 2 violations if certain requirements in the legislative history of the Act are met. Various groups, including Human Serve, the National Puerto Rican/Hispanic Voter Participation Project and the Rutgers University Constitutional Law Clinic, are serving as a resource for information and data in preparation for this complex litigation.

law punishes employers who hire undocumented aliens. The threat that employers will not hire Puerto Ricans in order to avoid the law's sanctions is real. There is the threat that Puerto Ricans will have to show proof of citizenship as a condition for employment, and that failure of proof will cost them jobs. Also, New York State is contemplating offering all citizens and documented residents identification cards which can be used for employment purposes. Although the card is not required by the State, it is feared that employers will refuse to hire Puerto Ricans who choose not to obtain the card.

These and other potential effects of the law pose serious civil rights and civil liberties issues for the Puerto Rican community. The Fund communicated with State officials regarding the law and its effects on Puerto Ricans. The Fund will be present at future planning meetings with state officials to discuss possible approaches, i.e. public education campaigns; special "immigration hot-line" within the State Division of Human Rights; opposition to the I.D. card option etc.

Special Education

- The Fund is looking into the possible discrimination against a Puerto Rican elementary school student who was rejected from a public school gifted children's program. Although she scored in the 96th percentile on a standardized aptitude test for the program, she was rejected for not reaching the 97th percentile. This school (and public schools in general) have very few, if any, Puerto Rican children in their gifted programs. The Fund is in the process of communicating with the school principal and District Superintendent regarding the reasons for the child's rejection.

Health

Bilingual/bicultural wards to assist in the diagnoses and treatment of Spanish-speaking mental health patients at Pilgrim

The Fund provided legal and technical assistance to the office of New York State Senator Olga Mendez in its attempt to convince the State's Mental Health Commissioner to institute a bilingual mental health ward at Pilgrim State in Long Island. The Fund prepared a preliminary legal analysis of the civil rights issues raised by the bilingual ward proposal. This was transmitted to Senator Mendez and used in her letter to the Commissioner.

Employment Discrimination

- Uniform Guidelines on Employee Selection are the underpinning of much of The Fund's employment discrimination litigation. Several civil rights organizations and others have been meeting to develop strategies to defend the guidelines from Reagan Administration attempts to amend them. The Fund has commented on recent proposed regulatory changes.

- The Fund filed testimony opposing the appointment of Jeffrey Zuckerman as the General Counsel of the EEOC. The General Counsel's position is used in many ways to set policy in employment discrimination litigation by the EEOC. Mr. Zuckerman espoused a very narrow view of employment discrimination enforcement. This nomination was defeated in Congress.

Police Abuse

Fund staff advised an individual that alleged that she was assaulted by Family Court Officers (N.Y. County) while handcuffed to a chair in May 23, 1986 and prepared a pro-se Notice of Intent to File Claim against the State of New York, the Family Court and several court officers. Thereafter, The Fund sought private counsel for her and the criminal charges were subsequently dismissed.

Amicus Briefs

The Fund also joined with other organizations in supporting

Spanish language translations at Local 11 union meetings. This union is 80% Hispanic of which 60% speak and understand only Spanish. The case originally decided in favor of the Hispanic union members at the District Court level.

In conjunction with Human Serve in New Brunswick, The Fund is planning to commence a Voting Rights action in New Brunswick. We have and continue to document voting rights violations against Latino voters including situations where there is a failure to provide bilingual voter assistance. Our main issue, however, will focus on the dilution of Puerto Rican voting strength through an "at large" voting scheme as opposed to a "ward by ward" system. Thus, we will raise many of the issues found objectionable by the United State Supreme Court in the Gingles case.

In addition to working with Human Serve, The Fund is working with the Rutgers Law School Constitutional Law Clinic which will help us research relevant issues. We are scheduled to meet with community leaders to gather necessary data during November 1986.

Fund staff participated in other legal activities as follows:

- ° Attended an introductory briefing on Truth-In-Testing Legislative initiatives for examinations for the professions in New York State. The meeting was sponsored by several state assemblymen who sought support on the bills.

- ° Drafted a legal position paper to provide legal assistance to the Governor's Commission on Hispanic Affairs of the State of Massachusetts. The Commission requested an analysis of the legal implications of a proposed state law to declare English the official language of the State. The legislation did not become law.

- ° Participated in the Puerto Rican/Latino Education Roundtable's Conference on the Community School Board elections to discuss the petitioning process.

- ° Provided legal assistance to private counsel in Paterson, New Jersey who represented an Hispanic candidate (Jose Torres who lost an election to the city council by ten votes). The Fund was able to offer a number of suggestions regarding the lack of bilin-

held in 1985 was 217. The participants submitted excellent evaluations of the program.

The course has undergone some modifications since June of this year. Given our limited resources and the special needs of our students, it was decided that an open admissions policy would defeat the purpose of our program. The application was changed and admission into the course is now based on educational and financial disadvantage. Priority will be given to students who have traditionally done poorly on standardized exams. Additionally, the materials are being updated and the students will be required to take an additional mock LSAT exam under test-taking conditions at the beginning of the course, so that they can better evaluate their progress.

The number of applications received this year was so large that we were forced to place 40 students on a waiting list. This year there were 313 students enrolled in the preparatory course.

c) Personal Statement Course:

Last year 36 students were enrolled in our Personal Statement Course which is designed to provide guidelines on the structural and substantive requirements of the essay. Because the personal statement is one of the most important parts of the law school application and our students have serious writing problems which require individual attention, we have expanded the present course and added another session.

The purpose of the expansion is to provide the student with a last review of the final essay. In the past, the instructors did not review the student's final work product and personal statements in need of major revision were mailed out to the law school. The additional time spent on the essays will reinforce necessary writing skills.

This year we have reviewed over 85 personal statements and approximately 75 students have enrolled in our course.

d) Law Day:

Last year the law day was attended by 300 prospective law students and over 50 law schools were represented. Although this

statistical research has been done but the data base remains incomplete. Additional research is necessary for the pre-law manual which we hope to publish for participating students.

Post-Admissions

a) Internships:

The Legal Education and Training Division is currently in the process of recruiting for the student internship program. Announcement letters have been sent out to law students, law student organizations and the placement offices at different law schools describing the program and encouraging their application. Once the applications are received, they will be reviewed and selected candidates will be interviewed.

b) Network of Latino Law Students:

The Network of Latino Law Students coordinated by The Fund is currently exploring the following:

- 1) Co-sponsoring a Regional Latino moot court competition;
- 2) Assisting in the coordination of a job fair for Latino law students; and,
- 3) An approach to dealing with the admissions and retention of Latinos in law school, for example, considering the coordination of a two week summer orientation for incoming first year students.

c) Scholarship Program:

General scholarship applications were sent to all first and second year students in our post-admission caseload. Additionally, packages of 10 applications were sent to Latino law student associations and to the law schools which requested them. We have received 77 applications.

As a result of our recommendations, the Puerto Rican Bar Association awarded scholarships to seven of our students. The final selections from our applicant pool are made by early December.

b) Legal Employment Opportunity Newsletter/Resume Bank:

Presently, the Education Division keeps a file of legal and non-legal job announcements which is made available to our students.

We are beginning to compile job announcements to be sent out in summary form to law graduates on our mailing list. This is a more effective means of providing this essential information. We are also developing a Resume Bank which will allow us to provide firms, corporations, government agencies and organizations with the resumes of our law graduates.

Other professional development activities carried out by the Legal Education and Training Division include:

- ° Seminars on voting rights and education rights to The Fund's summer interns;
- ° Workshops for Public Interest Law Center students and staff which examine benefits and disadvantages of filing class actions, including the distribution of pleadings and materials;
- ° Meetings with the Puerto Rican Bar Association to evaluate law student scholarship applications;
- ° Career Day at Roosevelt High School in the Bronx to encourage high school students to enter the legal profession;
- ° Presentation at the Public Interest Careers Symposium at Columbia Law School along with representatives of the ACLU and the NAACP Legal Defense Fund;
- ° Participation in a Career Day for high school students at Rutgers University (Newark) sponsored by The Rutgers Minority Recruitment Committee;
- ° Presentation on civil rights legal organizations with a representative of the National Conference of Black Lawyers to a group of exchange law students from the South Bank Polytechnic School in London, sponsored by The Center for Legal Education of the City College of New York; and,
- ° Presentation to 300 high school students at the Puerto Rican Youth Development Youth Conference in Rochester, New York on civil rights issues of the Puerto Rican community within the legal arena.

° AMERICAN IMMIGRATION LAWYERS ASSOCIATION (AILA): Meeting on impact of Simpson-Rodino Immigration Bill on Puerto Rican community, November 12, 1985.

° NEW YORK COUNTY LAWYERS ASSOCIATION (NYCLA): Meeting with Immigration & Nationality Committee on Simpson-Rodino Bill on November 12, 1985.

° PUERTO RICAN BAR ASSOCIATION (PRBA): Meeting December 10, 1985 of Immigration & Naturalization Committee on Simpson-Rodino.

° JESSE JACKSON: Meeting with Jesse Jackson concerning Simpson-Rodino bill and meeting with Peter Rodino on July 15, 1986.

° AMERICAN JEWISH COMMITTEE: Attended workshop for Fund at AJC-Community Council of Greater New York regarding immigration, nationality and race discrimination against the Asian community. Met with Lloyd Levit, the program director on May 30, 1986 and made suggestions to form a Not For Profit Legal Services Organization for Asians that have recently arrived in the United States. This suggestion was accepted and is now being implemented. Coordinated meetings of the legal staffs of The Fund and the American Jewish Committee to discuss mutual concerns and identify common areas of work.

° HISPANIC JEWISH DIALOGUE: Participated in meetings of The Hispanic-Jewish Dialogue between a number of Latino community organizations and the Anti-Defamation League of B'nai Brith on the community issues raised by Latinos and Hasidic Jews during the P.S.16 litigation in Williamsburg, Brooklyn.

° HISPANIC SOCIETIES: Met on numerous occasions with the presidents of the various Hispanic societies of New York City and New York State agencies. These organizations promote increased opportunities for Hispanic employees and for the recruitment and hiring of more Hispanics. In these meetings we have discussed how The Fund can assist in challenging discriminatory barriers to employment.

° UNIVERSITY OF WISCONSIN: Presentation on employment discrimination at the University of Wisconsin - Madison sponsored by the Union Puertorriqueña.

rights under the rent stabilization and rent control laws, housing court proceedings, federal housing programs, and crisis intervention.

° LA UNION CURCA: Community training lecture to some 250 persons on landlord tenant issues including grounds for evictions and defenses.

° LEGAL OBSERVERS: Served as legal observer for two protest marches and rallies during September, 1986. The first, sponsored by the Coalition for Racial Justice was held in the Allerton section of the Bronx to protest the racial violence against Puerto Ricans in that area. The second was sponsored by United Parents Against the Wall to protest the physical segregation of Hasidic students and public school students in Public School #16. The march and rally took place in Williamsburg, Brooklyn.

Fund attorneys served as coordinators of legal observers for the October 4th National Puerto Rican March for Justice sponsored by the National Congress for Puerto Rican Rights, The Fund and other organizations. Responsibilities included recruitment and coordination of training for all legal observers and acting as legal observers for the free expression of protest by the Puerto Rican community.

° RED HOOK: Consultations with two (2) detectives from Internal Affairs Department concerning Hispanic gambling in Red Hook Park on July 17th and 18th, 1986. Suggestions for avoiding a community riot on this issue implemented by NYC Police Department.

° COMMUNITY ACTION FOR LEGAL SERVICES EDUCATION LAW TRAINING: Conducted training for CALS staff on bilingual education and special education and agreement to conduct future training sessions, November 13, 1985.

° COMMUNITY ACTION FOR LEGAL SERVICES (CALS): Provided technical assistance in filing suppression motions at hearings, May 8, 1986.

° COMMUNITY ACTION FOR LEGAL SERVICES (CALS): Participation in planning meeting regarding amendment of Bill of Patients' Rights to include interpreter in emergency rooms.

° BROOKLYN LEGAL SERVICES CORP "A": Planning meeting to prepare housing workshop for December 4, 1985 for community education meeting.

° TESTIMONY BEFORE U.S. HOUSE OF REPRESENTATIVES: Presented testimony on behalf of The Fund, Puerto Rican Bar Association and Commonwealth of Puerto Rico on Simpson-Rodino Bill.

V. EDUCATION RIGHTS PROJECT

FORTIFYING BILINGUAL EDUCATION FOR LANGUAGE MINORITY STUDENTS

A. Correcting Violations of the Aspira Consent Decree

1. District 24, PS 19, Corona Queens:

As part of the Aspira Consent Decree monitoring activity in District 24, The Fund notified the community school board and the Office of Bilingual Education (OBE) about the unusually high withdrawal rates in the District. The Fund worked with the President of the Parent Teachers Association (P.T.A.) of P.S. 19 and other parents, specifically those alleging that the school was not seeking parental approval for the withdrawal of children from the bilingual program.

The result of this work was the procurement of affidavits intended to document the specific instances which The Fund alleges were violations of Circular No. 11; this regulation guides the implementation of the Consent Decree. Two affidavits were received and were forwarded to OBE.

Our primary work in District 24 this year was to document our findings. These findings had been previously presented to the community school board and OBE. Parents are still

Rican/Latino Education Roundtable and other voter participation organizations to safeguard the process for parents to vote in the May 1986 community school board elections.

The Fund was involved in Education Roundtable conferences and community school board meetings on the voting process during November 1985. During these meetings parents participated with prospective school board members in workshops which provided information on the nuts and bolts and politics of the school board election process.

The Fund recommended that all school districts centralize the forwarding and verification of voter information from principals at the local school level. The allegations were that the last time they had elections in District 6 principals by and large, caused a delay in processing voter information. They may have had the voter registration forms but were not verifying them or not forwarding them to the central board. The Fund recommended that the school board consolidate some of the processes on a district-wide level rather than allow each principal at every school to handle the process individually. The school board has agreed to do this.

In mid-November of 1985, the school board passed a resolution calling for a "watchdog committee" of selected members of the school board. The committee is headed by Guillermo Linares, and includes a representative of the parent association of each school in the district. The Board has also asked for the advisory participation of three organizations - The Fund, The New York Civil Liberties Union

The Fund's efforts in the Education Rights Project focus on District 6 because it is the largest district in school population and also has the largest percentage of Latino children in the City. This is due in some measure to the heavy influx of immigrants to that area.

3. District 2, I.S. 70, Chelsea:

In this district, the most recent issue in which The Fund is involved has centered around the reassignment of the only bilingual paraprofessional of the bilingual education class.

The Fund is investigating this issue and has written a letter to the Chancellor's Office requesting a review of the circumstances surrounding this concern.

At I.S.70, where several grade levels are in the same classroom, it is critical to utilize a bilingual paraprofessional to provide assistance in tailoring appropriate instruction to each grade level. The Fund is assisting in insuring that the necessary instructional staff is made available for the bilingual education program.

4. District 10, P.S.95, Bronx:

As a result of L.A.B. testing, children in kindergarten were reassigned to newly created, self-contained bilingual education classes. Children were reassigned to different monolingual classes and Latino children entitled to participate in the bilingual program were either reassigned to different classrooms or remained in their old classroom but with different teachers. The parents of monolingual as

Decree in selected schools. As a result of the report, school principals were instructed by Superintendent Goldberg not to release any other information to Ms. Ortiz.

After consultation with Fund staff school board member Ortiz requested that the board advise school principals of her entitlement to the information and advised the board that its failure to do so would compel her to present a resolution at the November 25, 1985 public meeting reaffirming her rights and privileges as a member of the school board. These rights include: the obligation of the entire board to insure the implementation of effective and appropriate education programs; the right to receive the solicited information; and, the immediate disclosure of information directly from the principals. She also advised that in the event the resolution failed to pass, she would appeal to the Chancellor and thereafter the State Education Department. Ms. Ortiz has sought legal counsel from The Fund.

B. Compliance Reports Under the Consent Decree

There has been direct communication between Fund Staff and the Office of Bilingual Education directed by Nilda Soto Ruiz on the details of an acceptable format for the compliance reports.

In addition, Fund staff have reviewed the research report prepared by the Educational Priorities Panel (EPP) discussing the implementation of bilingual education programs in New York City.

- o Secure greater press coverage, especially by El Diario provide more in-depth coverage of the issue.

The legal issues impacting on the provision of bilingual education are:

- o Whether restrictions on state and federal education funds are being followed and whether The Fund can demonstrate a misuse of funds;
- o Whether we can target selected districts for non-compliance rather than proving non-compliance City-wide, since the problem with implementation of the Consent Decree has always been at the local level. This approach, if legally viable, would allow us to identify the worst abuses.

Following is the status of the Fund's work in this area as of December, 1985:

- o Efforts to schedule City Council hearings are on-going. Aspira will take the lead given its membership on the Educational Priorities Panel;
- o Assemblyman Serrano, among others, has received correspondence from the Fund requesting that he hold hearings. In a follow-up meeting with Assemblyman Serrano's office the initial reaction was that it may not be opportune to hold the hearings at this time inasmuch as it would provide a forum for those against bilingual education to vent their hostility. It now seems that we are close to achieving agreement on holding hearings during the upcoming year.
- o Discussion with the Mayor's Commission on Hispanic Affairs revealed that they would be unable, in the immediate

Compounding these problems is the shortage of bilingual teachers. The Chancellor claims that in 1985 there are approximately 2500 bilingual education teachers. He projects a need of 5000 bilingual education teachers by 1988 to implement his plan. One of the findings of EPP is that there are only enough bilingual teachers to fulfill 57% of the need. The Fund has asked the strategy group on EPP headed by Aspira to assess the Chancellor's plan for increasing the number of bilingual teachers.

EPP Report Research:

The Fund met with two individuals who were drafting and researching the data that formed the basis of the EPP Report - Linda Rodriguez Glass, one of the researchers for EPP, and Robin Wilmer, Project Director and author of the report to provide information and an overview of the legal foundations for bilingual education policies in NYC (See Attachment IV) . Aspira with The Fund will decide its strategy after the upcoming Albany meeting on the State's role in compliance.

C. Language Policy Statement

The Chancellor received approval of the end product of the groups' work on the Language Policy Statement. These groups are Aspira, the Puerto Rican/Latino Education Roundtable, the Office of Bilingual Education and a subcommittee of the Chancellor's Commission on Bilingual Education chaired by Isaura Santiago-Santiago. We were charged with the task of developing a workable draft of a language policy statement to which the Chancellor responded and we were be able to

Education and was advised that their recruitment methods were being revamped. Although the actual net gain of bilingual special education teachers is insignificant, there are signs that in the short term there will be a larger gain.

The enhanced recruitment initiatives include the establishment this year of a demonstration program with two colleges, Brooklyn College and Fordham University. This program focuses on the recruitment of special education teachers through tuition incentives to offset the training costs associated with special education teacher certification generally, with a special emphasis on bilingual special education teachers.

The goal was to train 60 teachers during the entire process with individuals completing the courses during summer sessions and then taking the test required by the Board of Examiners to become, at least initially, temporary per diem teachers in the system. The original goal to get one half of all original enrollees to be bilingual teachers fell short. Only twelve additional special bilingual education teachers were certified in a field that originally included 120. There are several reasons why the objective was not met:

- 1) Students were not necessarily making the grade at the university level; those who did failed to pass the certification examination. The recruitment plan has now been rethought to achieve more effective results and the plan is for schools to admit a predetermined ratio of bilingual to regular special education teachers. Because of this

general special education recommendations. Although it is logical to argue that adequate numbers of personnel can insure a correct bilingual assessment it also may point to the validity of the testing instrument for assessing the needs of bilingual children. Although this is not at the heart of the Dyrcia case, it is a related and tangential issue being litigated in Lora P. v. N.Y.C. Board of Education which attacks directly the validity of the test instruments utilized for special education assessment.

From a legal standpoint, given their recruitment efforts in Puerto Rico as well as other places, it will be difficult to demonstrate that the Board of Education is not doing enough, even though the shortage continues since they have been utilizing other approaches. It would thus be extremely difficult to meet the legal standard of absence of "good faith" efforts. The Fund, therefore, will continue to address this issue through advocacy efforts.

In a related matter, The Fund was advised that the Mayor's Task Force on Special Education reported and recommended in mid 1985 that the social workers of the School Based Support Teams (SBST) were no longer needed because the education evaluators would be able to absorb their responsibilities. The Fund is concerned over this recommendation because unlike the education evaluators and psychologists, there are sufficient numbers of bilingual social workers to address the needs of bilingual children. They are in many cases the only effective liaison with the home environment

to discuss three new issues, namely:

- o The significant under-admission of Blacks and Latinos into the City's elite high schools, alleged to result from discriminatory admission practices;
- o The high rate of school suspensions for Blacks and Latinos and the extent to which language barriers for parents and students play a role in suspension hearings; and,
- o Equal access to gifted education programs.

During 1985, The Fund did significant research on the selection criteria for gifted education programs and obtained material from the New York City Consortium on Bilingual Gifted Education on the definition of bilingual gifted education.

Meetings with experts in the area of bilingual gifted education were held. It was determined that biased testing instruments were used in their bilingual gifted programs. Since the selection process is not uniform nor centralized each district is free to utilize its own criteria for admission into bilingual gifted programs.

With regard to the districts under investigation we are now discussing specific goals with parents, that is, entry into the monolingual gifted program versus the bilingual gifted program based on the dominant language of the child. After our discussion with Advocates for Children we will decide whether to mount a challenge against the selection criteria and testing instruments being utilized. It should be noted that the Board of Education has advised the

Indeed, a review of the Fund's work over the last fourteen years reveals that language discrimination is a consistent thread in the civil rights litigation efforts of the organization. Therefore the development of a language policy agenda is an essential piece to the advancement of equal opportunities for our Latino community. In furtherance of this objective, Fund staff in 1985 began to explore the basis for the legal right to bilingualism. In this country of immigrants, there is no comprehensive language policy. In fact, there is no "official" language of the United States. Thus, while English is the common tongue of our residents there are many official uses of language other than English in many of our contacts with the government.

Fund staff has developed materials designed to establish the legal foundations for bilingualism under constitutional, international and federal statutory law. This research also explores the relationship of this jurisprudence to the struggle for equal opportunity by linguistic minorities in the areas of education, access to the courts, voting, government entitlements and employment. Special attention has been devoted to the Puerto Rican, Mexican-American and Native American communities which enjoy the use of a language that is still considered "foreign" in this country.

This research has provided the framework for the development of a textbook titled, Cases and Materials - Legal Foundations on Native Language Assistance to Linguistic

On the Roundtable's community control and empowerment issue, the goal of securing funding to implement a community education conference was achieved. The conference was held this past November, 1985 at which some 150 - 200 persons participated representing parents, school board members, candidates for the school board and community members.

3. Proposed New York State Social Studies Curriculum:

In mid 1985 New York State announced a revised social studies curriculum which was to be implemented in the upcoming academic year. The syllabus for the proposed curriculum completely omitted any reference to Puerto Rican's history or culture for all elementary and secondary grades. In fact, while Latin America was included in the curriculum, Puerto Rico was omitted from both United States History and Latin American History.

Since the number of Puerto Rican students in our schools number over 185,000, The Fund along with other concerned organizations joined together to demand a revision of the proposed curriculum to meet the educational needs of these Puerto Rican students.

In July, 1985, The Fund President and other organizational representatives met with Chancellor Quinones to make known thier concerns and to discuss the need to revamp the proposed curriculum. As a consequence of our discussion, the Chancellor has agreed to address these concerns before the revised curriculum is implemented.

problem;

6. The Fund must extend its legal expertise to educational systems in other jurisdictions having a high concentration of Puerto Rican/Latino children;

7. The Fund must develop a legal strategy to address the pervasive overcrowding in public schools within the Latino community. Our preliminary research has provided a legal basis upon which to proceed. However, because the possible remedies include student busing, the implication of moving forward with a lawsuit must be discussed with the parents potentially affected. The first case of this type will likely be brought in District 6, Washington Heights, where the overcrowding is most egregious;

8. Finally, The Fund must join or intervene in desegregation lawsuits where the remedy may jeopardize the viability of existing bilingual education programs. The Fund is currently exploring its involvement in both Yonkers, New York and Lorraine, Ohio where challenges to segregated school systems have been instituted.

B. Research

The Fund's Education Rights Project has disclosed several areas requiring significant education-related research, including:

1. The extent to which students are incorrectly assessed for special education purposes as correlated with students' language minority status;

2. The degree to which determinations on educational

community district level;

3. The empowerment of the Latino community and parental population to effectively influence their community school boards, particularly in heavily concentrated Latino communities;

4. Advocacy for a firm language policy for education that rejects the "deficit" label (i.e., Limited English Proficient") and espouses a re-thinking of the linguistic assets of Puerto Rican and Latino children in the international context;

5. Advocacy for "quality education" reform to tap the large number of our "wasted youth" that does not run afoul of "equity" and equality"; and finally,

6. Advocacy for a comprehensive language policy for the U.S. that respects the language rights of Latino and other dual language citizens.